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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,190	03/03/2004	Timothy S. Hansen	77059	4927
48940	7590	06/28/2007	EXAMINER	
FITCH EVEN TABIN & FLANNERY			STULII, VERA	
120 S. LASALLE STREET			ART UNIT	PAPER NUMBER
SUITE 1600			1761	
CHICAGO, IL 60603-3406				
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06/28/2007		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/792,190	HANSEN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Vera Stulii	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 03 March 2004.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-23 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date, \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 1-10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaufmann (US 3,162,536) in view of Bowes et al (Bowes & Church's Food values of Portions Commonly Used).**

Kaufmann discloses a method for producing alimentary food paste from starchy flours of low protein content. Kauffman discloses mixing low protein flours with water (Col. 1 lines 35-36). Kaufmann also discloses extruding the pasta dough (Col. 1 line 37). Kaufmann also discloses the water content of the resulting dough is from 30 to 40 percent by weight (Col. 2 lines 1-3). Kaufmann also discloses no significant amounts of a texture-enhancing agent. Kauffman also discloses that "depending on particular properties of the starchy flours of low protein employed, the composition of the flour and the water content of the dough and the processing temperature applied thereto may be adapted to the various needs" (Col. 2 lines 36-41). In regard to firmness recitation, Kauffmann teaches "products produced in this manner when tested in the uncooked state by the so-called chewing test, have an elastically yieldable character which may be attributed to the gelatinization of starch throughout the cut strands of grain" (Col. 2 lines 31-35). In regard to specific protein level of flour, Kauffmann teaches potato flour as a low protein flour (Col. 2 line 55).

Kaufmann does not disclose using low protein wheat flour, specific temperature and humidity and particular firmness of the dried pasta.

Bowes et al teach potato flour contains about 8% of protein (p.149). Bowes et al also teach wheat flours with low content of protein. In particular, Whole wheat (Golden Medal flour) contains 4.0% protein, enriched wheat flour (General Mills) contains 3.0% protein, etc (p.150).

Since Kaufmann discloses producing alimentary food paste from starchy flours of low protein content, and Bowes disclose low protein wheat flours, one of the ordinary skill in the art would have been motivated to modify disclosure of Kaufmann and employ wheat flour having low protein content and also being more traditional ingredient for alimentary paste product. Bowes et al. show that both potato and wheat flour are well known and widely used low protein flours, and its selection would have been obvious, as the particular flour would give the product, in this case, pasta, its particular characteristics. One of the ordinary skill in the art would have been motivated to do so in order to obtain a product that has organoleptic properties close to traditional alimentary paste products and having low protein content at the same time.

Since Kaufmann teaches that " depending on particular properties of the starchy flours of low protein employed, ... the processing temperature applied thereto may be adapted to the various needs", it would have been obvious to one of ordinary skill in the art to modify drying temperature and humidity as claimed depending on particular type of low protein flours used. Since Kaufmann teaches "products produced in this manner when tested in the uncooked state by the so-called chewing test, have an elastically

yieldable character which may be attributed to the gelatinization of starch throughout the cut strands of grain", it would have been obvious to one skilled in the art to modify gelatinization conditions such as temperature in order to achieve desired level of pasta firmness. See MPEP 2144.05 (II), which states that "where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation."

**Claims 11 and 13-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaufmann (US 3,162,536) in view of Bowes et al (Bowes & Church's Food values of Portions Commonly Used) and Flessner GMBH & CO (EP 0084831).**

Kaufmann and Bowes et al is taken as cited above.

Kaufmann do not disclose soft wheat flour.

Flessner GMBH & CO hereinafter Flessner disclose producing an alimentary paste article using soft wheat flour such as soft wheat semolina (Abstract, p.1). It was well known in the art that soft flours have a protein content lower than hard flours.

Since Kauffman teaches alimentary paste food from starchy flours of low protein content, and Bowes disclose low protein wheat flours, and Flessner teaches producing alimentary paste article using soft wheat flour which has a low protein content, it would have been obvious to one of ordinary skill in the art to modify the disclosure of Kauffman and employ soft wheat flour as taught by Flessner in order to obtain a low-protein pasta product. One of the ordinary skill in the art would have been motivated to

use mix of flours such as soft and hard flours in order to achieve desired firmness, texture and elasticity and maintain low protein content at the same time.

***Response to Arguments***

Claim rejection under 35 USC § 112 second paragraph has been withdrawn.

Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vera Stulii whose telephone number is (571) 272-3221. The examiner can normally be reached on 7:00 am-3:30 pm, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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